

REPORT TO THE HONORABLE  
MAYOR AND CITY COUNCIL

Status Report: U.S.A. v. City  
(Secondary Treatment)

Civil Action No. 88-1101-B (IEG)

A motion to dismiss portions of the above entitled case was argued on April 10, 1989 in Department 2 of the Southern District United States District Court before the Honorable Rudi M. Brewster.

The City's motion sought dismissal of the First Claim for Relief (discharges in violation of the NPDES permit and lack of secondary treatment) and the Fourth Claim for Relief (dis-charge of sludge at Brown Field and Mission Bay). The basis of the motion was that from 1977 and culminating in Cease and Desist Order No. 87-113, the City has been governed by a series of Regional Water Quality Control Board orders that have inter alia established interim clean water requirements with which the City has complied and continues to comply. Further, the Regional Board has conducted enforcement actions on the referenced spills to which the City has responded either by refuting liability or paying the levied penalty.

Oral argument on the motion extended for approximately two (2) hours with Judge Brewster taking the motion under submission and promising a written opinion on the issues presented. Because of the complexity of briefs, the judge did not indicate a time frame for his ruling.

Special Counsels James J. Dragna, Randall J. Krause and Chief Deputy City Attorney Ted Bromfield represented the City on both the briefs and at oral argument.

Respectfully submitted,  
JOHN W. WITT  
City Attorney

TB:mb:452.1.1:(x043.1)

cc Metropolitan

Sewer Task Force

RC-89-10